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ABSTRACT

This paper presents management considerations for planning an in-school suspension program applicable to handicapped students and reviews relevant court rulings affecting formation of suspension and expulsion policies. The Supreme Court's 1975 decision in "Wood v. Strickland" established that a student cannot be deprived of the right of education without due process. "Goss v. Lopez" limits suspension to 10 days. Appellate court rulings establish that a handicapped student can be expelled only if misbehavior is not directly related to the handicapping condition, if the Education for All Handicapped Children Act due process procedures have been applied, and if expulsion does not result in cessation of educational services. Although in-school suspension is developing, courts have not addressed this alternative relative to either handicapped or nonhandicapped students. Advantages of this procedure include close student supervision and a meaningful learning experience. In-school suspension should not change the student's placement, because the program design is educational, not just detentional, in nature. Planning should consider three areas: operating policy, curriculum, and program management. The report recommends management considerations, including systematic monitoring and feedback to students. Awarding points would allow systematic monitoring and regular feedback to students concerning their performance. Decisions made from objective data facilitate a student's return to regular placement or need for other options. (CJH)

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Expulsion and Suspension of Handicapped Children

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Expulsion and Suspension of Handicapped Students

The U.S. Supreme Court has ruled in WOOD v. STRICKLAND (1975) that students do not have a constitutional right, per se, to education. Education was, however, interpreted as qualifying as property and liberty rights. Therefore, a student can not be deprived of education without due process of law. In GOSS v. LOPEZ (1975), the Supreme Court set forth due process rights that apply to all students prior to removal from school. The court said that the student was entitled to:

1. Some kind of notice;
2. Some kind of hearing;
3. Know what he/she is accused of and the basis for the accusation;
4. An opportunity to tell his/her side.

GOSS v. LOPEZ also limits a suspension to no more than 10 days. Presumably, after that point, the action may be considered an expulsion, which is another issue altogether, since it represents a cessation rather than a suspension of services.

In the two above cases, the U.S. Supreme Court has established a legal position on the expulsion and suspension of students from school which applies to all students. It must, at this point, be asked how this position and federal law impact on the expulsion and suspension of handicapped students. In S-L v. TURLINGTON (1981), a state court ruling was affirmed by a U.S. Court of Appeals which bears on the issue of expulsion of handicapped students. In this decision the court affirmed that expulsion of a handicapped student is a change in educational placement and thereby invokes the procedural safeguards of the Education of All Handicapped Children's Act of 1975 (EAHCA). The court did not rule, however, that a handicapped student can not be expelled. The court established the rule that, before an expulsion can take place, a group of professionals must determine that the student's misbehavior is not directly related to the handicapping condition. The court also struck down the school system's argument that the student would have to be ruled as "seriously emotionally disturbed" in order for

a direct link to be established between the handicapping condition and the misbehavior.

Another U.S. Court of Appeals, in KAELIN v. GRUBBS (1982), has reinforced the TURLINGTON ruling by affirming that expulsion is a change of placement. The court agreed with the earlier court in taking the position that a handicapped student may be expelled in accordance with due process procedures, but even then, a complete cessation of educational services can not take place. More recently, the ruling in the TURLINGTON case has been affirmed by another U.S. Court of Appeals in the case of SCHOOL BOARD OF PRINCE COUNTY v. MALONE (1985). These three rulings appear to clearly establish that expulsion of a handicapped student can only take place if it has been established that the student's misbehavior is not directly related to the handicapping condition, if EAHCA due process procedures have been properly applied, and if the expulsion does not result in a complete cessation of educational services. In cases where the student's misbehavior is determined to be directly linked to his/her handicapping condition, the school is allowed to move the student to an

appropriate but more restrictive placement if EAHCA due process procedures are properly followed in making the change of placement.

In GOSS v. LOPEZ (1975) the U.S. Supreme Court held that "suspension is considered not only to be a necessary tool to maintain order but a valuable educational device." Citing this case a U.S. District Court, in BOARD OF EDUCATION OF THE CITY OF PEORIA, SCHOOL DISTRICT 150 v. ILLINOIS STATE BOARD OF EDUCATION (1982), has ruled that federal law allows suspensions to be used to enforce classroom discipline. The court in this case held that, if the misbehavior of the student is not directly linked to the handicapping condition, a short-term suspension is not a change in placement. It would appear, however, that a determination of the relationship of the student's misbehavior to his/her handicapping condition should be made prior to the suspension. A possible exception to this, however, appears to be possible under a ruling by a U.S. District Court in JACKSON v. FRANKLIN COUNTY SCHOOL BOARD (1985). In this case the court held that if a student's behavior

is clearly a danger to self or others, immediate removal from the classroom can be justified.

Based on a U.S. District Court ruling, in MRS. A. J. v. SPECIAL SCHOOL DISTRICT 1 (1979), it would appear that the due process guidelines established by the U.S. Supreme Court in GOSS v. LOPEZ are sufficient in suspension cases involving handicapped students, provided the suspension does not violate the ten-day rule, including any extension of the original term of suspension. The court in the MRS. A. J. case also held that a school system is not required, at the time of suspension, to treat a student as handicapped if that student has not yet been ruled as handicapped, even if the student is in the referral process.

Thus, it appears that when there is no direct link between a student's misbehavior and the handicapping condition, the courts will allow a handicapped student to be suspended following the same procedures and legal requirements that apply to nonhandicapped students. If there is a direct link between the misbehavior and the handicapping condition, the school may consider moving the student to a more restrictive placement. If this is

the action decided upon, it must be done in compliance with EAHCA due process procedures. Of course, suspension remains as an option even when there is a direct link between the misbehavior and the handicapping condition, provided that all parties, including parents, are in agreement.

An Alternative

Another procedure that is becoming more widely used is in-school suspension. This procedure has not, to this writer's knowledge, yet been addressed by the courts relative to either handicapped or nonhandicapped students. However, since it is less severe than suspension from school, it seems reasonable to assume that the guidelines discussed above should be sufficient for regulating this procedure. In-school suspension has several advantages over suspensions which apply to normal and handicapped students alike. First it avoids the possibility of turning an unsupervised student loose in the community. This could actually result in the suspension being a rewarding experience for some students and may aggravate their misbehavior at school, i.e., to get suspended again. Second, it segregates the

student from the general school population, which reduces the potential for disruption and may be viewed as undesirable by the student, i.e., punitive. Finally, in-school suspension, in combination with an appropriate educational program, can give students a meaningful learning experience. This experience can be designed to benefit the student both academically and behaviorally.

The in-school suspension program appears to be a viable alternative to suspension and expulsion for both handicapped and nonhandicapped students. If the in-school suspension period does not exceed the ten-day rule and, in the case of handicapped students, the misbehavior is not directly related to the students handicapping condition, there appears to be no legal barrier to placing students in an in-school suspension program for disciplinary purposes. Based on the above discussion of the court record, placement of a handicapped student in such a program should not be considered a change in placement. Even if the student has to be transported to another site, there is no reason to view this as a change of placement. There also appears to be no reason to believe that in-school

suspension would require a modification of a handicapped student's IEP. Suspension from school, under the condition allowed by the courts, of a handicapped child does not constitute a change of placement, or require a modification of the student's IEP.

In-school suspension should be a more attractive and defensible disciplinary procedure to both parents and the general public, particularly when it is designed as an educational program and is not just a detention program. A discussion of some considerations that should be made when setting up an in-school suspension program follow. These considerations take in three broad areas: operating policy, curriculum, and management of the program.

Policy Considerations

In order to have a successful program, there must be a set of operating policies which are consistent with the purpose of the program. The following general policies are suggested.

1. There should be no more than a three grade or three year age range amongst students in the program. This would require two programs, one at the middle-

junior high school level, and one at the senior high school level. Alternatively, there could be a single program which operates on a split session, half-day basis.

2. There should be a maximum enrollment in the program(s). The suggested level is 15 students.
3. There should be specific criteria set for assigning a student to the program. These criteria should relate to seriousness of the offense, e.g., Level One or Level Two offense. The duration of the placement should be tied to the level of offense.
4. There should be fixed periods for placement in the program, e.g., three days or five days.
5. Placement in the program should have a consistent beginning point, e.g, Monday or Wednesday.
6. Return to the regular program should be contingent upon successful participation in the program with specific criteria for what constitutes successful participation.
7. Failure to successfully meet the participation criteria should result in at least a hearing to consider other options such as suspension from

school and/or a change in placement to a more restrictive environment for a handicapped student or suspension from school or expulsion for a normal student.

8. For any student who has been placed in the in-school suspension program, successful participation should be a criterion for acceptance in any other school program, e.g., alternative program, athletic program, etc.

Curriculum Considerations

A brief duration placement such as this with a heterogeneous group of students relative to age, grade, and ability will have logistic and coordination problems. Obtaining academic assignments and materials from a large number of different teachers with different schedules and possibly in different locations can represent a major program obstacle. Further, it is very difficult to find a teacher for an in-school suspension program who can adequately address all of the instructional needs which will be represented in the program. For these reasons, the program should have a stand-alone curriculum that will allow uniformity in

programming. Two possible curricula that could be considered would be either a generic learning skills program or a functional academic program. Either of these curricula should be paired with a set of objectives related to appropriate classroom deportment.

The classroom deportment program should emphasize those behaviors that facilitate good classroom functioning. Suggested components might include:

1. Being on time;
2. Having necessary materials;
3. Completing assignments on time;
4. Turning in assignments on time;
5. Responding to questions appropriately;
6. Following directions appropriately;
7. Maintaining good seat behavior, e.g., proper sitting posture;
8. Remaining in seat unless given permission to be up;
9. Getting permission before speaking;
10. Being courteous to others.

These components are suggested because they represent the kinds of classroom behavior necessary for good classroom functioning and facilitate positive attitudes in teachers toward students who exhibit them (adapted from Adelman, 1982). The deportment program should be coupled with either the learning skills or functional academics curriculum.

The learning skills program is one that attempts to teach the student generic learning strategies which can be applied in any subject area. Suggested components might include:

1. Listening skills
    a. Listening for organizing cues
    b. Listening for emphasis cues
    c. Listening for main and supporting ideas
    d. Questioning for clarification

2. Reading skills
    a. Using table of contents
    b. Using index
    c. Using glossary/dictionary
    d. Using headings
    e. Using skimming
    f. Using scanning
    g. Developing questions to guide reading
    h. Using intensive reading

3. Study skills
    a. Note taking skills
    b. Outlining skills
    c. Reference skills
    d. Survey skills (SQ3R Method)
    e. Preparing for tests (SCORER Method)

4. Time Management
   a. Setting goals
   b. Setting priorities
   c. Time estimation
   d. Planning a schedule

These components are suggested because they represent general skills that will facilitate learning in any subject area and are therefore not content bound (adapted from Alley & Deshler, 1979).

The functional academics program is one that attempts to teach the student to apply basic academic skills to problems in daily living and, in particular, the world of work. Suggested components, with associated reading and math activities, might include:

1. Paying bills;
2. Opening and using a checking account;
3. Budgeting;
4. Applying for and using credit;
5. Buying a car;
6. Renting a car;
7. Job resources;
8. Finding out about companies;
9. Applying for a job;
10. Interviewing for a job;

11. Employer relations;

12. Job retention.

These components are suggested because they represent important applications of basic academic skills to functional problems in daily life including both personal and employment needs (adapted from Wircenski, 1982).

Adoption of a stand-alone curriculum such as one of those suggested has several advantages. First, all necessary instructional materials can be on hand and do not have to be requested and collected for each student individually. Assignments from the students' regularly scheduled teachers could, if desired, still be used as homework assignments. Second, the teacher has control of the curriculum in the classroom and can plan and instruct within a predictable framework. Third, since the curriculum is not hierarchial, it can be entered and exited at almost any point. Fourth, the curriculum should be generic enough to be suitable for a variety of students. Finally, since it would take a fair amount of time to go through the entire instructional sequence, the odds are that repeaters would enter at a point

different from their previous entry point into the program.

Management Considerations

This component must provide a systematic approach to monitoring and providing students feedback on their performance relative to the deportment program and the instructional program. This can be done using a management system based on points, which will be referred to hereafter as performance units (PUs). PUs will be awarded to students on a schedule (See Figure 1), with PUs allocated between the deportment and instructional programs. Each student will have an individual record sheet on which PUs will be recorded at the end of each class period (See Figure 2). Accumulation of PUs will be directly tied to the criterion for successful participation in the program (See Figure 3). The examples provided in Figures 1-3 are just examples. Modification or adaptation may be necessary depending on circumstances.

Insert Figures 1, 2, & 3 about here

This management plan will allow systematic monitoring and regular feedback to students concerning their performance in the program. Further, it will provide the objective data upon which decisions can be made about the students' return to their regular placement or need for other options.

The points covered in this paper do not cover every possible consideration in planning an in-school suspension program. What has been attempted is a discussion of three major considerations with related suggestions. Obviously, a paper such as this can not address the specific needs of an individual school system. However, it is hoped that the points covered, suggestions, and examples will serve as a useful guide to anyone considering the development of an in-school suspension program.

References

Adelman, M. (1982). School survival skills: A guide for teachers. Media, PA: Delaware County Public Schools.

Alley, G. & Deshler, D. (1979) Teaching the learning disabled adolescent: Strategies and methods. Denver, CO: Love Publishing.

Wircenski, J. (1982). Employability skills for special needs learner: An integrated program of reading, math, and daily living skills. Rockville, MD: Aspen Systems.

Suggested Readings on Litigation

Data Research, Inc. (1986). Handicapped students and special education, 3rd ed. Rosemount, MN: Data Research, Inc.

Slenkovich, J. (1984). Understanding special education law, Vol. 1. Cupertino, CA: Kinghorn Press.

Turnbull, H., & Fiedler, C. (1984). Judicial interpretation of the Education for All Handicapped Children Act. Reston, VA: ERIC Clearing House on Handicapped and Gifted Children.

1. Attendance

   a. Present and on time, 30 PUs
   b. Present and no more than 10 minutes tardy, 20 PUs
   c. Present and over 10 minutes tardy, 10 PUs
   d. Excused absence, 0 PUs (Does not count toward days assigned to program.)
   e. Unexcused absence, 0 PUs (Does not count toward days assigned to program, and more than one such absence initiates an expulsion hearing.)

2. Deportment

   a. 10 PUs per period
   b. -1 PU for each infraction of any of the standards in the deportment program

3. Instruction

   a. up to 50 PUs per class period
   b. 10 PUs for completing task(s)
   c. 40 PUs for task accuracy (Criterion is 90-100% on single task, or average on multiple tasks within a class period.)
   d. 30 PUs (Same criterion except 80-89% accuracy)
   e. 20 PUs (Same criterion except 70-79% accuracy)
   f. 10 PUs (Same criterion except 60-69% accuracy)
   g. 0 PUs if accuracy is 59% or less (10 PUs still possible if task(s) completed)

Figure 1. A suggested schedule for awarding performance units to students.

PU Record Sheet

Name: _____ Beginning Date: _____

		Monday	Tuesday	Wednesday	Thursday	Friday	Total	
Attendance 7:50-8:00								
Period 1 8:00-8:50	Deport.							
	Instr.							
Period 2 9:00-9:50	Deport.							
	Instr.							
Period 3 10:00-10:50	Deport.							
	Instr.							
Period 4 11:00-11:50	Deport.							
	Instr.							
Clean-Up Lunch 12:00-12:50	Deport.							
Period 5 1:00-1:50	Deport.							
	Instr.							
Free Time 2:00-2:40	Deport.							
						Cumulative Total		

	Earned	Possible	Percent
Monday			
Tuesday			
Wednesday			
Thursday			
Friday			
Total			

Figure 2. An example of a record keeping form that could be used in the management program.

1. Successful participation in the program:
   a. Daily, 70% of possible PUs (245)
   b. Weekly, 70% of possible PUs (1225)

2. Extra lunch on day two requires successful participation on day one, and so on.

3. Participation in free-time period requires successful participation for that day. If criterion is failed due to loss of PUs during the free-time period, the period is terminated for the student at that point.

   Free-time should include opportunities to engage, appropriately, in desired activities, e.g.,

   1. Read magazines or comic books;
   2. Card games;
   3. Listen to music;
   4. Quiet conversation;
   5. Etc.

4. Successful completion of the program requires a minimum of 70% of the PUs possible during the placement period.

Figure 3. An example of rewards that could be earned through the management program.